

House Noise Control Task Force Meeting Minutes Tuesday, May 2nd, 2017 in Tatnall 112

The meeting was called to order at 10:45am. The meeting minutes were approved with minor spelling corrections. Circulated at the beginning of the meeting were the following handouts: an agenda, a copy of last meeting's minutes, a draft Table of Contents for the final report, and a draft of the recommendations for the report.

The task force began reviewing the draft recommendations. Holly Porter (DDA) started by stating her concern with the lack of clarity surrounding agricultural exemptions. She was specifically concerned that grain mills and feed mills must be exempt under the nuisance laws. DDA, at present, lacks the staffing and authority to enforce violations.

The issue of farm vehicles and other commercial tractor trailers resurfaced, and Ms. Porter wanted to reiterate the importance of exemption for trucks with an FV tag. Judge Horn and Ms. Porter discussed the line at which the vehicle no longer is exempt (i.e. once a truck leaves the farm property).

DNREC and DOJ planned to meet separately to discuss the recommendations re: agricultural exemptions.

Kitty Holtz submitted a write-up on behalf of the Farm Bureau, and noted that the strong recommendation is to ensure that the realty industry improves its "buyers beware" language in the disclosure agreement.

Bob McVey from the Delaware Association of Realtors (DAR) distributed two documents, the Seller's Disclosure of Real Property Condition Report and the same form for New Construction Only. He walked the group through disclosure form, highlighting where buyers must acknowledge their understanding of various regulations and liabilities.

Mr. McVey brought up the recommendation suggesting a revamped compilation of resources for this disclosure arose in the discussion. Kayli Spialter and Sarah Fulton agreed to complete this portion of the recommendations, and submit the changes to the state in order to improve this portion of the disclosure forms.

Mr. McVey also noted the possibility that many "FSBO"s—properties that are for sale by owner—likely do not complete this form, as they may be unaware of the requirement to do so. It is imperative to the DAR that the language pertaining to realtors should change to say "licensee," as all realtors are licensees, but not all licensees are realtors. This language change would ensure that more property transactions are completed.

It was determined that an additional link should be provided in the disclosure to prospective homebuyer's regarding county-respective zoning language.

Rep. Smyk redirected the conversation toward the Department of Motor Vehicles, which was represented by Scott Clapper, Chief of Vehicle Services. Rep. Smyk articulated the recommendation of the task force which suggests a separation of the inspection notice from ticket, shifting the burden of proof away from the inspecting police officer when loud trucks are stopped. Mr. Clapper cited the difficulty with enforcing noise violation as it pertains to trucks, due to the subjectivity of the noise.

Rep. Smyk noted that Wade Hudson had previously suggested maintaining a log of inspectors, so that inspection notices can be tracked and traced back to the inspecting authority. Mr. Hudson differentiated between IRP (states who travel interstate, aka apporportion) inspection and self-inspection.

Judge Horn reintroduced the recommendation pertaining to the retraining of 911 operators. Once the task force defines the types of noise violations and identifies the regulatory authorities for each, it will be easy to develop a matrix for 911 operators to follow.

The recommendation to scour through the Delaware Code and evaluate each statute relating to noise will fall to a separate group outside of the task force. This initiative will be assigned to Legislative Counsel and other supporting delegates.

Rep. Smyk and Ms. Fulton plan to finalize the recommendations and other components to the final report. They will explore the feasibility and legality of establishing a proxy voting process.

Rep. Smyk adjourned the meeting at 12:15.

House Noise Control Task Force Attendee List

- Chairman Rep. Stephen Smyk
- Wade Hudson (Member of the Public)
- Chief Keith Banks (DE League of Local Governments)
- Patrick Emory (DNREC)
- John Eby (DNREC)
- James Faedtke (DNREC)
- Judge James Horn (Chief Magistrate)
- Devera Scott (DOJ)
- Kayli Spialter (DOJ)
- Holly Porter (DDA)
- Kitty Holtz (Farm Bureau)
- Scott Clapper (DMV)
- Mark Tobin (OAW)